

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO DIVERSION FROM  
DETENTION CENTERS OF PERSONS SUFFERING FROM MENTAL DISORDERS AND WHO ARE  
ACCUSED OF MINOR MISDEMEANOR OFFENSES; AND AMENDING SECTION 53-21-138, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 53-21-138, MCA, is amended to read:

**"53-21-138. Diversion of certain persons suffering from mental disorders from detention center.**

(1) The sheriff or administrator of a detention center in each county shall require screening of inmates to identify persons accused of minor misdemeanor offenses who appear to be suffering from mental disorders and who ~~may require commitment, as defined in 53-21-102~~ appear to have impairment of judgment as a result of a mental disorder that may have contributed to a minor misdemeanor offense.

(2) If as a result of screening and observation it is believed that an inmate is suffering from a mental disorder ~~and may require commitment~~ that may have caused an impairment of judgment that may have contributed to a minor misdemeanor offense, the sheriff or administrator of the detention center shall:

(a) request services from a crisis intervention program established by the department, as provided for in 53-21-139;

(b) refer the inmate to the nearest qualified mental health care provider as arranged by the county; or

(c) subject to 53-21-193 and subsection (3) of this section, transfer the inmate to a private mental health facility, a behavioral health inpatient facility, an outpatient mental health facility, or a hospital equipped to provide treatment and care of persons who are suffering from a mental disorder ~~and who require commitment~~.

(3) The facility must be notified, and:

(a) if the facility is an inpatient facility, the facility shall state that a bed is available and agree to accept transfer of the patient based on admission criteria for a voluntary admission before a person may be transferred under this section; or

(b) if the facility is an outpatient facility, the facility shall state that a qualified licensed mental health professional has agreed to evaluate the person and to recommend appropriate mental health treatment, which

1 the person must be given the opportunity to agree to on a voluntary basis.

2 (4) As used in this section, the term "minor misdemeanor offense" includes but is not limited to a  
3 nonserious misdemeanor, such as criminal trespass to property, loitering, disorderly conduct, and disturbing the  
4 public peace.

5 (5) A person intoxicated by drugs or alcohol who is accused of a minor misdemeanor offense may be  
6 detained in a jail until the level of intoxication is reduced to the point that screening for a mental disorder ~~and~~  
7 or the need for commitment can be performed.

8 (6) If the person in custody does not agree to voluntary admission or treatment or appears to require  
9 commitment as defined in 53-21-102, the sheriff or administrator of a detention center shall proceed as provided  
10 in this part for civil commitment proceedings or as provided in Title 46, chapter 14."

11 - END -